THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.27504 of 2005

Date:26.12.2005

M.Bhupal Reddy

..PETITIONER

Government of A.P. and others

..RESPONDENTS

ORDER:

The petitioner was granted lease of maintaining and running a Tollgate for the bridge at km 32/4 of Hyderabad-Karimnagar-Ramagundam road in Ranga Reddy District from 01.04.2004 to 31.03.2006. The corresponding lease deed was executed on 27.03.2004 and was registered with the fifth respondent. The lease deed is said to have been released, on being satisfied that proper stamp duty and necessary registration charges were paid.

The audit party of the registration department had verified the records of the fifth respondent and found that there is a deficit of Rs.7,05,180/- towards stamp duty and a sum of Rs.60,405/- towards registration charges on the lease deed dated 27.03.2004. Thereafter, the second respondent addressed a memo dated, 11.11.2005, to the first respondent to collect the deficit stamp duty of Rs.7,05,180/- and Rs.60,405/- towards registration charges from the petitioner. Consequently, the first respondent addressed a letter, dated 21.11.2005, to the petitioner requiring him to deposit the said amount within ten days from the date of receipt of that order, with a warning that in case the amount is not paid within that time, the Tollgate would be taken over. The petitioner challenges the said proceedings.

It is contended that the respondents did not follow the procedure prescribed under the Indian Stamp Act (for short 'the Act'), particularly, the one prescribed under Section 41-A of the Act.

Heard the learned counsel for the petitioner and the learned Government Pleader for R & B.

The lease deed executed by the first respondent in favour of the petitioner on 27.03.2004 was registered and released by the fifth respondent. Section 41-A of the Act prescribes the procedure to be followed in the event of any deficiency of stamp duty or registration charges being noticed, after a document is registered and released. In such cases, the Collector is under obligation to issue notice to the parties concerned, directing them to show cause as to why the deficit amount shall not be collected. A reasoned order is required to be passed on consideration of the explanation. Sub-section 2 thereof provides for an appeal to the Chief Controlling Revenue Authority. The Registrar, with whom the document is registered, has hardly any role to play in the matter.

In the instant case, the entire procedure prescribed under Section 41-A of the Act was given a goby. The Collector, the fourth respondent herein, did not serve any notice, as contemplated under that provision, upon the petitioner or the first respondent. The fifth respondent has taken upon himself, the task of collecting the amount, without there being any adjudication by the fourth respondent, much less, a show cause notice preceding it.

The obligation of the petitioner to pay any amount towards deficit stamp duty or registration charges would arise, if only the fourth respondent has initiated proceedings contemplated under Section 41-A of the Act. Inasmuch as such proceedings have not been initiated, neither the first respondent nor the fifth respondent is entitled to require the petitioner to pay any amount.

In that view of the matter, the writ petition is allowed and the impugned order, dated 21.11.2005, is set aside. It shall be open to the fourth respondent to take necessary steps in accordance with Section 41-A of the Act and the liability of the petitioner would arise only on culmination of such proceedings. No costs.

26.12.2005

kdl